

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DARRYL R. CHAMBERS,

Plaintiff,

v.

DELA CRUZ, Case Manager,
Tecumseh State Prison, SCOTT
FRAKES, Director, COLEMAN,
Case Manager, Nebraska State
Penitentiary, AMANDA
CHADWICK, Unit Manager,
ZAMORA, Case Manager,
CROWDER, Case Manager,
CATHY SHEAIR, Warden,
SHERWOOD, Case Manager, All
employed at Lincoln Correctional
Center, BRAD HANSEN, Warden,
ATHENA THOMAS, Unit
Administrator, PAM HILLMAN,
CORPORAL HARDY, All Employed
at Tecumseh Correctional Center,
HARBANS S. DEOL, D.O., and
JOHN DOE NOS. 1-5, all in their
Individual and Official Capacities,

Defendants.

4:19CV3047

**MEMORANDUM
AND ORDER**

As directed in this court's Memorandum and Order (Filing No. 10) after initial review of Plaintiff's pro se Complaint (Filing No. 1), Plaintiff's counsel (who was appointed after such initial review) filed an Amended Complaint (Filing No. 19) on September 17, 2019, that generally complies with the court's order to include allegations that state a claim upon which relief may be granted as to Defendants Hardy and Hillman. Therefore, this matter may proceed to service of process. Further, because

counsel has been appointed, this case will be removed from the pro se docket. Accordingly,

IT IS ORDERED:

1. This action may proceed to service of process as to all Defendants.
2. For service of process on all named¹ Defendants (who are all Nebraska Department of Correctional Services employees) in their official capacities, the Clerk of Court is directed to complete a summons form and a USM-285 form for such Defendants using the address “Office of the Nebraska Attorney General, 2115 State Capitol, Lincoln, NE 68509,” and forward them together with a copy of the Amended Complaint (Filing No. 19) and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve all named Defendants in their official capacities at the Office of the Nebraska Attorney General, 2115 State Capitol, Lincoln, NE 68509.** See Federal Rule of Civil Procedure 4(j)(2); Neb. Rev. Stat. § 25-510.02.²

¹“Named Defendants” does not include the Defendants characterized as “John Doe Nos. 1-5.” These Defendants cannot be served until they are identified.

²Pro se litigants proceeding in forma pauperis are entitled to rely on service by the United States Marshals Service. *Wright v. First Student, Inc.*, 710 F.3d 782, 783 (8th Cir. 2013). Pursuant to 28 U.S.C. § 1915(d), in an in forma pauperis case, “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases.” See *Moore v. Jackson*, 123 F.3d 1082, 1085 (8th Cir. 1997) (language in § 1915(d) is compulsory); Fed. R. Civ. P. 4(c)(3) (court must order that service be made by United States Marshal if plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915). See, e.g., *Beyer v. Pulaski County Jail*, 589 Fed. Appx. 798 (8th Cir. 2014) (unpublished) (vacating district court order of dismissal for failure to prosecute and directing district court to order the Marshal to seek defendant’s last-known contact information where plaintiff contended that the jail would have information for defendant’s whereabouts); *Graham v. Satkoski*, 51 F.3d 710, 713 (7th Cir. 1995) (when court instructs Marshal to serve papers for prisoner, prisoner need furnish no more than information necessary to identify defendant; Marshal should be able to ascertain defendant’s current address).

3. For service of process on Defendants Scott Frakes and Harbans S. Deol, D.O., in their individual capacities, the Clerk of Court is directed to complete a summons form and a USM-285 form for such Defendants using the address “Nebraska Department of Correctional Services, 801 W. Prospector Pl., Lincoln, NE 68522” and forward them together with a copy of the Amended Complaint (Filing No. 19) and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve Defendants Scott Frakes and Harbans S. Deol, D.O., personally in their individual capacities at the Nebraska Department of Correctional Services, 801 W. Prospector Pl., Lincoln, NE 68522.** Service may also be accomplished by using any of the following methods: residence, certified mail, or designated delivery service. *See* Federal Rule of Civil Procedure 4(e); Neb. Rev. Stat. § 25-508.01.

4. For service of process on Defendants Brad Hansen, Case Manager Dela Cruz, Athena Thomas, Pam Hillman, and Corporal Hardy in their individual capacities, the Clerk of Court is directed to complete a summons form and a USM-285 form for such Defendants using the address “Tecumseh State Correctional Institution, 2725 Hwy 50, Tecumseh, NE 68450” and forward them together with a copy of the Amended Complaint (Filing No. 19) and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve Defendants Brad Hansen, Case Manager Dela Cruz, Athena Thomas, Pam Hillman, and Corporal Hardy personally in their individual capacities at the Tecumseh State Correctional Institution, 2725 Hwy 50, Tecumseh, NE 68450.** Service may also be accomplished by using any of the following methods: residence, certified mail, or designated delivery service. *See* Federal Rule of Civil Procedure 4(e); Neb. Rev. Stat. § 25-508.01.

5. For service of process on Defendants Cathy Sheair; Case Managers Zamora, Crowder, and Sherwood; and Unit Manager Amanda Chadwick in their individual capacities, the Clerk of Court is directed to complete a summons form and a USM-285 form for such Defendants using the address “Lincoln Correctional Center,

3216 West Van Dorn St., Lincoln, NE 68522” and forward them together with a copy of the Amended Complaint (Filing No. 19) and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve Defendants Cathy Sheair; Case Managers Zamora, Crowder, and Sherwood; and Unit Manager Amanda Chadwick personally in their individual capacities at the Lincoln Correctional Center, 3216 West Van Dorn St., Lincoln, NE 68522.** Service may also be accomplished by using any of the following methods: residence, certified mail, or designated delivery service. *See* Federal Rule of Civil Procedure 4(e); Neb. Rev. Stat. § 25-508.01.

6. For service of process on Defendant Case Manager Coleman in their individual capacity, the Clerk of Court is directed to complete a summons form and a USM-285 form for such Defendant using the address “Nebraska State Penitentiary, 4201 S. 14th St., Lincoln, NE 68502” and forward them together with a copy of the Amended Complaint (Filing No. 19) and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve Defendant Case Manager Coleman personally in their individual capacity at the Nebraska State Penitentiary, 4201 S. 14th St., Lincoln, NE 68502.** Service may also be accomplished by using any of the following methods: residence, certified mail, or designated delivery service. *See* Federal Rule of Civil Procedure 4(e); Neb. Rev. Stat. § 25-508.01.

7. The United States Marshal shall serve all process in this case without prepayment of fees from Plaintiff.

8. Federal Rule of Civil Procedure 4(m) requires service of the complaint on a defendant within 90 days of filing the complaint. However, Plaintiff is granted, on the court’s own motion, an extension of time until 90 days from the date of this order to complete service of process. The Clerk of Court shall set a case-management deadline accordingly.

9. The Plaintiff is now represented by counsel. (Filing No. 11.) At the direction of the court, this case is removed from the pro se docket. The Clerk of Court shall randomly assign new judges to this case and shall request a reassignment order from the Chief Judge.

DATED this 2nd day of October, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge